## *Remarks*

**Amendments**

Upon entry of the foregoing amendment, claims 1-5 and 7, are pending in the application, with claim 1 being the independent claim. Claim 6 is cancelled.

The specification has been amended by adding the reference to prior applications. No new matter has been added into the specification by this amendment.

Claims 1-5 and 7 have been amended to better conform with U.S. practice. Support for the amendments can be found in the specification and in the claims as originally filed. These changes are believed to introduce no new matter, and their entry is respectfully requested.

**Reply to Restriction Requirement**

Applicant hereby provisionally elects to prosecute the invention of Group I, represented by the original filed claims 1-7 and amended claims 1-5 and 7, directed to a compound of formula I, wherein Y is CH.

This election is made with traverse.

This application is a National Phase Entry Under 35 U.S.C. § 371 and, as such, PCT Rule 13 requiring unity of invention applies. In a situation involving the so-called Markush practice wherein a single claim defines alternatives, PCT Rule 13.2 governs. According to MPEP,

> When the Markush grouping is for alternatives of chemical compounds, they shall be regarded as being of a similar nature where the following criteria are fulfilled:
> (A) All alternatives have a common property or activity; and
> (B)(1) A common structure is present, i.e., a significant structural element is shared by all of the alternatives; or
> (B)(2) In cases where the common structure cannot be the unifying criteria, all alternatives belong to a recognized class of chemical compounds in the art to which the invention pertains.

MPEP 1850 III.B.

As the Examiner articulated in the Office Action, the requirement for unity of invention is two-fold: (1) common utility and (2) sharing a substantial structural feature. The claims of the instant application meet these two requirements.

***(1) Common utility***

The Examiner noted that compounds of Group I and II do not have a common utility because they can be used to regulate plant growth and as weed killing agents etc. The Applicants respectfully disagree.

The present invention relates to the compounds of formula I, the process of making the compounds of formula I and their use as herbicides. Compounds of Group I and II share the common utility of being effective herbicides, particularly for combating paddy field weeds as disclosed in the specification and claimed in the originally filed claim 6 and amended claim 5. Thus, contrary to the Examiner's conclusion, Applicants respectfully assert that compounds of Groups I and II share a common utility, i.e., as herbicides for paddy field weeds.

***(2) Sharing substantial structural feature***

The Examiner noted that compounds of Group I and II are independent and structurally dissimilar compounds that lack a common core. Specifically, the Examiner stated that wherein Y is CH, compounds of Group I are pyrimidine compounds; and wherein Y is N, compounds of Group II are triazine compounds. Applicants respectfully disagree.

Taking the formula I as a whole, the compounds of Group I and II share a common structure feature which occupies a large portion of their structures. The only slight dissimilarity between the compounds of Group I and II are the heterocyclic aromatic ring, one being pyrimidine and another being triazine.

The Examiner has taken the position that the heterocyclic aromatic rings are the core structures of the compounds of Group I and II respectively, and are essential to the utility recited in the claims. However, the Examiner did not provide any evidence for such assertion. Applicants note that the entire formula I, not any particular portion of formula is the special technical feature that forms a single general inventive concept of the instant application. Thus, contrary to the Examiner's conclusion, Applicants respectfully assert that compounds of Groups I and II share a substantial structural feature.

Applicants therefore respectfully assert that the Groups I and II share unity of invention and the Restriction Requirement is improper.

Furthermore, the Examiner stated

> Invention I and II are independent and distinct from each other . . . Consequently, the groups require separate prior searches. . . . Art

> which may render obvious or anticipate one of the groups would not necessarily do the same for other group. For example prior art cited in the International Search Report and the Information Disclosure Statement may not be applicable to all the above groups."

Office Action, pages 2-3.

Applicants respectfully point out that "separate searches" is not the criteria for a proper requirement for restriction for an application that is a National Phase Entry Under 35 U.S.C. § 371(c). Even if the Examiner can apply the "separate searches" criteria, the Examiner has not cited any reference in the International Search Report or Information Disclosure Statement to demonstrate that separate searches are required for the instant application. Applicants note that a prior art search for structures in which Y can be either CH or N is a routine structure search, which can be accomplished with a single search.

In summary, the instant application meets the unity requirement under PCT Rule 13. Reconsideration and withdrawal of the Restriction Requirement, and consideration and allowance of all pending claims, are respectfully requested.

## *Conclusion*

Prompt and favorable consideration of this Amendment and Reply is respectfully requested. Applicants believe the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Respectfully submitted,

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